



General Assembly

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Human Rights Council

Thirty-fourth session

27 February–24 March 2017

Agenda item 3

Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

Venezuela (Bolivarian Republic of):^a draft resolution

34/... Human rights and unilateral coercive measures

The Human Rights Council,

Recalling the purposes and principles of the Charter of the United Nations,

Recalling also all previous resolutions on human rights and unilateral coercive measures adopted by the Commission on Human Rights, the Human Rights Council and the General Assembly,

Reaffirming Human Rights Council resolutions 27/21 of 26 September 2014 and 30/2 of 1 October 2015, and General Assembly resolutions 69/180 of 18 December 2014 and 70/151 of 17 December 2015,

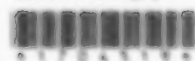
Stressing that unilateral coercive measures and legislation are contrary to international law, international humanitarian law, the Charter and the norms and principles governing peaceful relations among States,

Recognizing the universal, indivisible, interdependent and interrelated character of all human rights, and in this regard reaffirming the right to development as a universal and inalienable right and an integral part of all human rights,

Expressing its grave concern at the negative impact of unilateral coercive measures on human rights, development, international relations, trade, investment and cooperation,

Reaffirming that no State may use or encourage the use of any type of measure, including but not limited to economic or political measures, to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind,

^a On behalf of the States Members of the United Nations that are members of the Movement of Non-Aligned Countries.



Recognizing that unilateral coercive measures in the form of economic sanctions have far-reaching implications for the human rights of the general population of targeted States, disproportionately affecting the poor and the most vulnerable classes,

Alarmed by the fact that most current unilateral coercive measures have been imposed, at great cost, in terms of the human rights of the poorest and of persons in vulnerable situations, on developing countries by developed countries,

Underlining that under no circumstances should people be deprived of their basic means of survival,

Recognizing that long-term unilateral coercive measures may result in social problems and raise humanitarian concerns in the States targeted,

Highlighting the deep-rooted problems and grievances within the international system and the importance for the United Nations to give a voice to all members of the international community in order to ensure multilateralism, mutual respect and the peaceful settlement of disputes,

Expressing its grave concern that the laws and regulations imposing unilateral coercive measures have, in some instances, an extraterritorial effect not only on targeted countries but also on third countries, in contravention of the basic principles of international law, in a manner that will coerce the latter also to apply the unilateral coercive measures,

Welcoming the final document and declaration adopted at the seventeenth Summit of Heads of State and Government of the Non-Aligned Movement, held on Margarita Island, Bolivarian Republic of Venezuela, on 17 and 18 September 2016, in which the Movement reaffirms, among other things, its principled position of condemnation of the promulgation and application of unilateral coercive measures against countries of the Movement, which are in violation of the Charter and international law and undermine, among other things, the principles of sovereignty, territorial integrity, political independence, self-determination and non-interference,

Reaffirming that each State has full sovereignty over the totality of its wealth, natural resources and economic activity, exercising it freely, in line with General Assembly resolution 1803 (XVII) of 14 December 1962,

Recalling that the World Conference on Human Rights, held in Vienna from 14 to 25 June 1993, called upon States to refrain from any unilateral measure not in accordance with international law and the Charter and that created obstacles to trade relations among States and impeded the full realization of all human rights, and that also severely threatened the freedom of trade,

Deeply concerned that, despite the resolutions adopted on this issue by the General Assembly, the Human Rights Council, the Commission on Human Rights and at United Nations conferences held in the 1990s and at their five-year reviews, and contrary to norms of international law and the Charter, unilateral coercive measures continue to be promulgated, implemented and enforced by, inter alia, resorting to war and militarism, with all their negative implications for the social-humanitarian activities and economic and social development of developing countries, including their extraterritorial effects, thereby creating additional obstacles to the full enjoyment of all human rights by peoples and individuals under the jurisdiction of other States,

Deeply disturbed by the negative impact of unilateral coercive measures on the right to life, the rights to health and medical care, the right to freedom from hunger and the right to an adequate standard of living, food, education, work and housing,

Alarmed by the disproportionate and indiscriminate human costs of unilateral sanctions and their negative effects on the civilian population, in particular women and children, of targeted States,

Reaffirming that unilateral coercive measures are major obstacles to the implementation of the Declaration on the Right to Development,

Concerned that unilateral coercive measures have prevented humanitarian organizations from making financial transfers to States where they work,

Underlining that in each situation worldwide, unilateral coercive measures have a negative impact on human rights,

Underlining also the necessity of examining the wide range of impact of unilateral coercive measures on international humanitarian and human rights law, as well as on the economy, peace, security and social fabric of States,

Highlighting the need to monitor human rights violations associated with unilateral coercive measures and to promote accountability,

Recalling Human Rights Council resolutions 5/1, on the institution-building of the Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, of 18 June 2007, and stressing that the mandate holder shall discharge his duties in accordance with those resolutions and the annexes thereto,

Recalling also article 1 (2), common to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which provides that, inter alia, in no case may a people be deprived of its own means of subsistence,

1. *Calls upon* all States to stop adopting, maintaining or implementing unilateral coercive measures not in accordance with international law, international humanitarian law, the Charter of the United Nations and the norms and principles governing peaceful relations among States, in particular those of a coercive nature with extraterritorial effects, which create obstacles to trade relations among States, thus impeding the full realization of the rights set forth in the Universal Declaration of Human Rights and other international human rights instruments, in particular the right of individuals and peoples to development;

2. *Urges* all States to refrain from imposing unilateral coercive measures, also urges the removal of such measures, as they are contrary to the Charter and norms and principles governing peaceful relations among States at all levels, and recalls that such measures prevent the full realization of economic and social development of nations while also affecting the full realization of human rights;

3. *Strongly objects* to the extraterritorial nature of those measures which, in addition, threaten the sovereignty of States, and in this context calls upon all Member States neither to recognize these measures nor to apply them, and to take effective administrative or legislative measures, as appropriate, to counteract the extraterritorial application or effects of unilateral coercive measures;

4. *Condemns* the continued unilateral application and enforcement by certain powers of such measures as tools of political or economic pressure against any country, particularly against developing countries, with a view to preventing these countries from exercising their right to decide, of their own free will, their own political, economic and social systems;

5. *Expresses its grave concern* that any unilateral coercive measure imposed necessarily runs counter to some provisions of the International Bill of Human Rights or

peremptory norms and other provisions of customary law, and entails adverse consequences for the enjoyment of human rights by innocent people;

6. *Also expresses its grave concern* that, in some countries, the situation of children and women is adversely affected by unilateral coercive measures not in accordance with international law and the Charter that create obstacles to trade relations among States, impede the full realization of social and economic development and hinder the well-being of the population in the affected countries, with particular consequences for women, children, including adolescents, the elderly and persons with disabilities;

7. *Reiterates* its call upon Member States that have initiated such measures to commit themselves to their obligations and responsibilities arising from relevant provisions of the international law and human rights instruments to which they are parties by putting an immediate end to such measures;

8. *Reaffirms* in this context the right of all peoples to self-determination by virtue of which they freely determine their political status and freely pursue their own economic, social and cultural development;

9. *Also reaffirms* its opposition to any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a State, which is incompatible with the Charter;

10. *Recalls* that, according to the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations and to the relevant principles and provisions contained in the Charter of Economic Rights and Duties of States, proclaimed by the General Assembly in its resolution 3281 (XXIX) of 12 December 1974, in particular article 32 thereof, no State may use or encourage the use of economic, political or any other type of measure to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind;

11. *Reaffirms* that essential goods, such as food and medicines, should not be used as tools for political coercion and that under no circumstances should people be deprived of their own means of subsistence and development;

12. *Underlines* the fact that unilateral coercive measures are one of the major obstacles to the implementation of the Declaration on the Right to Development, and in this regard calls upon all States to avoid the unilateral imposition of economic coercive measures and the extraterritorial application of domestic laws that run counter to the principles of free trade and hamper the development of developing countries;

13. *Rejects* all attempts to introduce unilateral coercive measures, as well as the increasing trend in this direction, including through the enactment of laws with extraterritorial application;

14. *Recognizes* that the Declaration of Principles adopted at the first phase of the World Summit on the Information Society, held in Geneva in December 2003, strongly urges States to avoid and refrain from any unilateral measure in building the information society;

15. *Stresses* the need for an independent mechanism of the United Nations human rights machinery for the victims of unilateral coercive measure to address the issues of remedies and redress with a view to promote accountability and reparations;

16. *Urges* all special rapporteurs and existing thematic mechanisms of the Human Rights Council in the field of economic, social and cultural rights to pay due attention, within the scope of their respective mandates, to the negative impact and consequences of unilateral coercive measures and to cooperate with the Special Rapporteur

on the negative impact of unilateral coercive measures on the enjoyment of human rights in fulfilling his mandate;

17. *Recognizes* the importance of the quantitative and qualitative documentation of the negative impact associated with the application of unilateral coercive measures in the context of ensuring the accountability of those responsible for human rights violations resulting from the application of unilateral coercive measures against any State;

18. *Acknowledges* the need to ensure that all relevant United Nations human rights treaty bodies and subsidiary organs of the Human Rights Council mainstream the issue of the negative impact of unilateral coercive measures on the enjoyment of human rights and perform specific activities, such as during the review of periodic reports submitted by States to such bodies and under the universal periodic review;

19. *Decides* to give due consideration to the issue of the negative impact of unilateral coercive measures on human rights in its task concerning the implementation of the right to development;

20. *Takes note with interest* of the report of the Office of the United Nations High Commissioner for Human Rights on the outcome of the Human Rights Council panel discussion on unilateral coercive measures and human rights;¹

21. *Recognizes* the importance of the role of the Office of the High Commissioner in addressing the challenges arising from unilateral coercive measures and their negative impact on the human rights of peoples and individuals who wish to realize their economic and social rights, including the right to development;

22. *Requests* the High Commissioner, in discharging his functions in relation to the promotion and protection of human rights, to pay due attention and to give urgent consideration to the present resolution;

23. *Also requests* the High Commissioner to, in accordance with paragraph 19 of Human Rights Council resolution 27/21, organize for the thirty-sixth session of the Council the biennial panel discussion on the issue of unilateral coercive measures and human rights, and requests the Office of the High Commissioner to prepare a report on the panel discussion for submission and presentation to the Council at its thirty-seventh session, focusing in particular on the resources and compensation necessary to promote accountability and reparations;

24. *Takes note with interest* of the report of the Special Rapporteur,² and requests him to continue to pay special attention and identify immediate solutions to the negative impact of unilateral coercive measures on the enjoyment of human rights of victims, and to focus on the resources and compensation necessary to promote accountability and reparations for victims in his next report to the Human Rights Council and to the General Assembly;

25. *Calls upon* all States to cooperate with and assist the Special Rapporteur in the performance of his tasks, and to provide all necessary information requested by him;

26. *Urges* the High Commissioner, relevant special procedures of the Human Rights Council and the treaty bodies to pay attention, within the framework of their mandates, to the situation of persons whose rights have been violated as the result of unilateral coercive measures;

¹ A/HRC/31/82.

² A/HRC/33/48.

27. *Requests* the Secretary-General to provide the assistance necessary to the Special Rapporteur to fulfil his mandate effectively, in particular by placing adequate human and material resources at his disposal;

28. *Decides* to continue its consideration of the issue of the negative impact of unilateral coercive measures on human rights in accordance with its programme of work.



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Agenda item 3

Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

Albania, Andorra,* Armenia,* Australia,* Austria,* Belgium, Bosnia and Herzegovina,* Bulgaria,* Canada,* Croatia, Cyprus,* Czechia,* Denmark,* El Salvador, Estonia,* Finland,* France,* Georgia, Germany, Greece,* Honduras,* Hungary, Iceland,* Ireland,* Israel,* Italy,* Japan, Latvia, Liechtenstein,* Lithuania,* Luxembourg,* Malta,* Monaco,* Montenegro,* Netherlands, Norway,* Paraguay, Peru,* Philippines, Poland,* Portugal, Republic of Korea, Romania,* Serbia,* Slovakia,* Slovenia, Spain,* Sweden,* Switzerland, Turkey,* Ukraine,* United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay:* draft resolution

34/... Freedom of religion or belief

The Human Rights Council,

Recalling General Assembly resolution 36/55 of 25 November 1981, in which the Assembly proclaimed the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,

Recalling also article 18 of the International Covenant on Civil and Political Rights, article 18 of the Universal Declaration of Human Rights and other relevant human rights provisions,

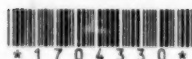
Recalling further Human Rights Council resolution 31/16 of 23 March 2016, and other resolutions adopted by the Council, the General Assembly and the Commission on Human Rights on the freedom of religion or belief or the elimination of all forms of intolerance and of discrimination based on religion or belief,

Recalling Human Rights Council resolutions 5/1 and 5/2 of 18 June 2007,

Noting with appreciation the conclusions and recommendations of the expert workshops organized by the Office of the United Nations High Commissioner for Human Rights and contained in the Rabat Plan of Action on the prohibition of advocacy of

* State not a member of the Human Rights Council.

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national, racial and religious hatred that constitutes incitement to discrimination, hostility or violence, adopted in Rabat on 5 October 2012,

Reaffirming that all human rights are universal, indivisible, interdependent and interrelated,

Recalling that States have the primary responsibility to promote and protect human rights, including the human rights of persons belonging to religious minorities, including their right to exercise their religion or belief freely,

Deeply concerned at continuing acts of intolerance and violence based on religion or belief against individuals, including persons belonging to religious communities and religious minorities around the world,

Underlining the importance of education in the promotion of tolerance, which involves the acceptance by the public of and its respect for diversity, including with regard to religious expression, and underlining also the fact that education, in particular at school, should contribute in a meaningful way to promoting tolerance and the elimination of discrimination based on religion or belief,

1. *Stresses* that everyone has the right to freedom of thought, conscience and religion or belief, which includes the freedom to have or not to have, or to adopt, a religion or belief of one's choice and the freedom, either alone or in community with others and in public or private, and to manifest one's religion or belief in teaching, practice, worship and observance, including the right to change one's religion or belief;

2. *Emphasizes* that freedom of religion or belief and freedom of expression are interdependent, interrelated and mutually reinforcing, and stresses the role that these rights can play in the fight against all forms of intolerance and discrimination based on religion or belief;

3. *Expresses deep concern* at emerging obstacles to the enjoyment of the right to freedom of religion or belief, and at instances of religious intolerance, discrimination and violence, inter alia:

(a) The increasing number of acts of violence directed against individuals, including persons belonging to religious minorities in various parts of the world;

(b) The rise of religious extremism in various parts of the world that affects the rights of individuals, including persons belonging to religious minorities;

(c) Incidents of religious hatred, discrimination, intolerance and violence, which may be manifested by derogatory stereotyping, negative profiling and the stigmatization of individuals on the basis of their religion or belief;

(d) Instances that, both in law and in practice, constitute violations of the fundamental right to freedom of religion or belief, including of the individual right to publicly express one's spiritual and religious beliefs, taking into account the relevant articles of the International Covenant on Civil and Political Rights and other international instruments;

(e) Constitutional and legislative systems that fail to provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all, without distinction;

(f) Attacks on religious places, sites and shrines and vandalism of cemeteries, in violation of international law, in particular international human rights law and international humanitarian law;

4. *Condemns* all forms of violence, intolerance and discrimination based on or in the name of religion or belief, and violations of the freedom of thought, conscience, religion or belief, and any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence, whether it involves the use of print, audiovisual or electronic media or any other means;

5. *Also condemns* violence and acts of terrorism, which are increasing in number and targeting individuals, including persons belonging to religious minorities across the world;

6. *Emphasizes* that no religion should be equated with terrorism, as this may have adverse consequences for the enjoyment of the right to freedom of religion or belief of all members of the religious community concerned;

7. *Also emphasizes* that States should exercise due diligence to prevent, investigate and punish acts of violence against persons belonging to religious minorities, regardless of the perpetrator, and that failure to do so may constitute a human rights violation;

8. *Strongly encourages* government representatives and leaders in all sectors of society and respective communities to speak out against acts of intolerance and violence based on religion or belief;

9. *Urges* States to step up their efforts to promote and protect freedom of thought, conscience and religion or belief, and to this end:

(a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience and religion or belief to all, without distinction, by, inter alia, the provision of access to justice and effective remedies in cases where the right to freedom of thought, conscience and religion or belief, or the right to freely practise one's religion, including the right to change one's religion or belief, is violated;

(b) To implement all accepted universal periodic review recommendations relating to the promotion and protection of freedom of religion or belief;

(c) To ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief, and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account, and to bring to justice all perpetrators of violations of these rights;

(d) To end violations of the human rights of women, and to devote particular attention to abolishing practices and legislation that discriminate against women, including in the exercise of their right to freedom of thought, conscience and religion or belief;

(e) To ensure that no one is discriminated against on the basis of his or her religion or belief in their access to, inter alia, education, medical care, employment, humanitarian assistance or social benefits, and to ensure that everyone has the right and the opportunity to have access, on general terms of equality, to public services in their country, without any discrimination on the basis of religion or belief;

(f) To review, whenever relevant, existing registration practices in order to ensure that such practices do not limit the right of all individuals to manifest their religion or belief, either alone or in community with others and in public or private;

(g) To ensure that no official documents are withheld from the individual on the grounds of religion or belief, and that everyone has the right to refrain from disclosing information concerning their religious affiliation in such documents against their will;

(h) To ensure, in particular, the right of all individuals to worship, assemble or teach in connection with a religion or belief and their right to establish and maintain places for these purposes, and the right of all individuals to seek, receive and impart information and ideas in these areas;

(i) To ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom of all individuals, including persons belonging to religious minorities, to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected;

(j) To ensure that all public officials and civil servants, including members of law enforcement bodies, and personnel of detention facilities, the military and educators, in the course of fulfilling their official duties, respect freedom of religion or belief and do not discriminate for reasons based on religion or belief, and that all necessary and appropriate awareness-raising, education or training is provided;

(k) To take all necessary and appropriate action, in conformity with international human rights obligations, to combat hatred, discrimination, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, and any advocacy of religious hatred that constitutes incitement to discrimination, hostility and violence, with particular regard to persons belonging to religious minorities in all parts of the world;

(l) To promote, through the educational system and other means, mutual understanding, tolerance, non-discrimination and respect in all matters relating to freedom of religion or belief by encouraging, in society at large, a wider knowledge of different religions and beliefs and of the history, traditions, languages and cultures of the various religious minorities existing within their jurisdiction;

(m) To prevent any distinction, exclusion, restriction or preference based on religion or belief that impairs the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis, and to detect signs of intolerance that may lead to discrimination based on religion or belief;

10. Stresses the importance of a continued and strengthened dialogue in all its forms, including among individuals of, and within, different religions and beliefs, and with broader participation, including of women, to promote greater tolerance, respect and mutual understanding, and takes note with appreciation of different initiatives in this regard, including the Alliance of Civilizations and the programmes led by the United Nations Educational, Scientific and Cultural Organization;

11. Welcomes and encourages the continuing efforts of all actors in society, including civil society organizations, religious communities, national human rights institutions, the media and other actors to promote the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and also encourages their work in promoting freedom of religion or belief and in highlighting cases of religious intolerance, discrimination and persecution;

12. Calls upon States to make use of the potential of education for the eradication of prejudices against and stereotypes of individuals on the basis of their religion or belief;

13. Takes note of the thematic report presented by the Special Rapporteur,¹ in which he presents an overview of his perspectives and vision for activities pursuant to the mandate, and the recommendations therein;

¹ A/HRC/34/50.

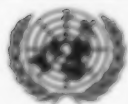
14. *Also takes note* of the work of the Special Rapporteur, and concludes that there is a need for the continued contribution of the Special Rapporteur to the promotion, protection and universal implementation of the right to freedom of religion or belief,

15. *Urges* all Governments to cooperate fully with the Special Rapporteur and to respond favourably to his or her requests to visit their countries, and to provide him or her with all necessary information to enable him or her to fulfil the mandate even more effectively,

16. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Special Rapporteur with all the human, technical and financial assistance necessary for the effective fulfilment of the mandate,

17. *Requests* the Special Rapporteur to report annually to the Human Rights Council and to the General Assembly in accordance with their respective programmes of work;

18. *Decides* to remain seized of this question under the same agenda item and to continue its consideration of measures to implement the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.



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Promotion and protection of all human rights, civil,
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including the right to development

Alghanistan, Ecuador, Egypt, Haiti,* Iraq, Libya,* Tunisia:*^a draft resolution

**34/... The negative impact of the non-repatriation of funds of illicit
origin to the countries of origin on the enjoyment of human
rights, and the importance of improving international
cooperation**

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

*Reaffirming the Universal Declaration of Human Rights, the Declaration on the
Right to Development, the Vienna Declaration and Programme of Action and other relevant
human rights instruments,*

*Reiterating the commitment to ensure the effective enjoyment of all civil, political,
economic, social and cultural rights for everyone, including the right to development, and
the obligation of all States, regardless of their political, economic and cultural systems, to
promote, protect and respect all human rights and fundamental freedoms,*

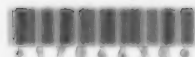
*Recalling General Assembly resolutions 60/251 of 15 March 2006, 62/219 of 22
December 2007 and 65/261 of 17 June 2011, and Human Rights Council resolutions 5/1
and 5/2 of 18 June 2007, 11/11 of 18 June 2009 and 16/21 of 25 March 2011,*

*Recalling also General Assembly resolutions 54/205 of 22 December 1999, 55/61 of
4 December 2000, 55/188 of 20 December 2000, 56/186 of 21 December 2001, 57/244 of
20 December 2002, 58/205 of 23 December 2003, 59/242 of 22 December 2004, 60/1 of 16
September 2005, 60/207 of 22 December 2005, 61/208 of 20 December 2006, 62/202 of 19
December 2007, 63/226 of 19 December 2008, 64/237 of 24 December 2009, 65/1 of 22*

^a State not a member of the Human Rights Council.

^{*} On behalf of the States Members of the United Nations that are members of the Group of African
States.

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September 2010, 65/169 of 20 December 2010, 67/192 of 20 December 2012, 68/195 of 18 December 2013, 68/309 of 10 September 2014 and 69/199 of 18 December 2014,

Recalling further Human Rights Council resolutions 17/23 of 17 June 2011, 19/38 of 23 March 2012, 22/12 of 21 March 2013, 25/9 of 27 March 2014, 28/5 of 26 March 2015 and 31/22 of 24 March 2016,

Recalling that human rights, as recognized in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, are universal, indivisible, interrelated and interdependent,

Reaffirming the commitments of States parties to the United Nations Convention against Corruption thereunder, recognizing that the Convention is aimed at promoting and strengthening measures to prevent and combat corruption more efficiently and effectively, and that the return of assets is one of the main objectives and a fundamental principle of the Convention,

Reaffirming also that all peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law, and that in no case may a people be deprived of its own means of subsistence,

Recognizing that respect for and adherence to the principles of transparency, accountability and participation are critical factors in ensuring use of returned illicit funds,

Recognizing also that fighting corruption at all levels is a priority and that flows of funds of illicit origin deprive countries of resources required to progressively realize human rights, including economic, social and cultural rights, and in particular the right to development, in such a way that threatens the stability and sustainable development of States, undermines the values of democracy, the rule of law and morality and jeopardizes social, economic and political development,

Recalling the United Nations Convention against Corruption, underlining its central role in fostering international cooperation to combat corruption and to facilitate the return of the proceeds of corruption-related crimes, and stressing the need for universal adherence to the Convention and for its full implementation, and the full implementation of the resolutions and decisions of the Conference of the States Parties to the Convention, particularly relevant decision adopted at its fourth and fifth sessions,

Recalling also that the United Nations Convention against Corruption underlines that States parties should not decline to render mutual legal assistance, pursuant to the Convention, including on the ground of bank secrecy, and in accordance with the domestic law of the requested State,

Concerned that the relative amount of wealth from developing countries held abroad is much greater than that from developed countries, and that a significant amount of that wealth held offshore may involve illicit funds,

Welcoming the adoption by the General Assembly of the 2030 Agenda for Sustainable Development,¹ and the inclusion therein of targets 16.4, 16.5, 16.6 and 16.10, which underline the commitment of States to significantly reduce by 2030 illicit financial and arms flows, to strengthen the recovery and return of stolen assets and to combat all forms of organized crime, to substantially reduce corruption and bribery in all their forms

¹ General Assembly resolution 70/1.

and to develop effective, accountable and transparent institutions at all levels, and to ensure public access to information and to protect fundamental freedoms, as implementing these targets will contribute to the enjoyment of all human rights, in particular economic, social and cultural rights,

Welcoming also the adoption by the Third International Conference on Financing for Development, held in Addis Ababa in July 2015, of the Addis Ababa Action Agenda,² which underlined, in particular, that measures to curb illicit financial flows will be integral to achieving sustainable development,

Welcoming further the convening of an experts meeting on the issue of the negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, pursuant to Human Rights Council resolution 28/5,

Taking note of the work carried out by different United Nations bodies, including the United Nations Office on Drugs and Crime, and international and regional organizations in preventing and combating all forms of corruption,

Bearing in mind that the prevention and eradication of corruption is a responsibility of all States, and that States should cooperate with one another, in accordance with the United Nations Convention against Corruption, with the support and full involvement of other stakeholders,

Bearing in mind also that, in accordance with the requirements of the Convention against Corruption, those who engage in corrupt acts, whether natural or legal persons, should be held accountable and prosecuted by the competent authorities, and that all efforts should be made to conduct a financial investigation into assets illegally acquired by them and to recover such assets through domestic confiscation proceedings, international cooperation for purpose of confiscation and appropriate recovery measures,

Encouraging all relevant United Nations mechanisms to continue their consideration of the negative impact of illicit financial flows on the enjoyment of human rights, to further explore policy responses to the phenomenon and to coordinate their efforts in this regard,

Recognizing that strong and efficient domestic legal systems are essential in preventing and combating corrupt practices and the transfer of assets of illicit origin and in returning such assets, and recalling that the fight against all forms of corruption requires strong institutions at all levels, including at the local level, able to take efficient preventive and law enforcement measures consistent with the United Nations Convention against Corruption, in particular chapters II and III thereof,

Appreciating the continued efforts of the Conference of the States Parties to the United Nations Convention against Corruption, through its various intergovernmental working groups, to oversee the review process of the implementation of the Convention, to advise on the provision of technical assistance for building institutional and human capacity in States parties for the prevention of corruption, and to enhance international cooperation, including in the return of the proceeds of crime,

Taking note with appreciation of the Lausanne process initiative on practical guidelines for efficient asset recovery, developed by 30 States parties in close collaboration with the International Centre for Asset Recovery and with the support of the Stolen Asset Recovery Initiative of the World Bank and the United Nations Office on Drugs and Crime, which are aimed at providing effective and coordinated approaches to asset recovery for practitioners from requesting and requested States,

² General Assembly resolution 69/313.

Affirming the responsibilities of requesting and requested States in the return of the proceeds of crime, cognizant that requesting States must seek return as part of their duty to ensure the application of the maximum available resources to the full realization of all human rights for all, including the right to development, address human rights violations and combat impunity, and that requested States, on the other hand, have a duty to assist and facilitate the return of the proceeds of crime, including through judicial assistance, as part of their obligation of international cooperation and assistance under chapters IV and V of the United Nations Convention against Corruption and in the field of human rights,

Recalling that the repatriation of funds of illicit origin requires the close and transparent coordination and cooperation of requesting and requested States, including between competent authorities, in particular the judicial authorities, within the shared responsibility to facilitate efficient international cooperation for the prompt recovery of assets of illicit origin,

Concerned at the challenges and difficulties that both requested and requesting States face in the return of the proceeds of crime, owing to, inter alia, differences in legal systems, the complexity of multijurisdictional investigations and prosecutions, lack of familiarity with the mutual legal assistance procedures of other States and difficulties in identifying the flow of funds of illicit origin, noting the particular challenges in recovering them in cases involving individuals who are or have been entrusted with prominent public functions and their family members and close associates, and recognizing that legal difficulties are often exacerbated by factual and institutional obstacles, and noting also the difficulties of providing information establishing a link between the proceeds of corruption in the requested State and the crime committed in the requesting State, which in many cases may be difficult to prove,

Asserting the urgent need to repatriate illicit funds to the countries of origin without conditionalities, in accordance with the United Nations Convention against Corruption and the relevant resolutions of the Conference of the State Parties, as well as the commitments made at the 2005 World Summit and the 2010 high-level plenary meeting of the General Assembly on the Millennium Development Goals to make the fight against corruption a priority at all levels and to curb the illicit transfer of funds, and urging all States to step up their efforts to trace, freeze and recover those funds,

Noting the particular concern of developing countries and countries with economies in transition regarding the need to return assets of illicit origin derived from corruption, in particular to countries from which they originated, consistent with the principles of the United Nations Convention against Corruption, in particular chapter V thereto, so as to enable countries to design and fund development projects in accordance with their national priorities in view of the importance that such assets can have to their sustainable development,

1. *Takes note with appreciation of the report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, focusing on labour rights in the context of economic reform and austerity measures,¹ prepared pursuant to Human Rights Council resolution 25/16;*

¹ A/HRC/31/60.

2. *Also takes note with appreciation* of the final study on illicit financial flows, human rights and the 2030 Agenda for Sustainable Development prepared by the Independent Expert;⁴
3. *Welcomes* the report of the High-level Panel on Illicit Financial Flows from Africa, which highlighted the gravity of the problem of illicit financial flows in the continent, ranging from \$50 to \$60 billion a year;
4. *Calls upon* all States that have not yet acceded to the United Nations Convention against Corruption to consider doing so as a matter of priority;
5. *Urges* requesting and requested States to cooperate to recover the proceeds of corruption, in particular, embezzled public funds, stolen assets and unaccounted-for assets, including those that are found in safe havens, and to demonstrate strong commitment to ensuring the return or disposal of such assets, including their return to the countries of origin;
6. *Calls upon* all States to consider enacting legislation to address offences by business enterprises, including multinational corporations, that deprive Governments of legitimate domestic sources of revenue for the implementation of their development agendas, in compliance with their international obligations, including international human rights law;
7. *Also calls upon* all States to seek to reduce opportunities for tax avoidance, to consider inserting anti-abuse clauses in all tax treaties and to enhance disclosure practices and transparency in both source and destination countries, including by seeking to ensure transparency in all financial transactions between Governments and companies to relevant tax authorities;
8. *Asserts* the urgent need to return the proceeds of crime to the requesting countries without conditionalities, in accordance with the United Nations Convention against Corruption and with due process, to strive to eliminate safe havens that create incentives for transfer abroad of stolen assets and illicit financial flows, and to strengthen regulatory frameworks at all levels;
9. *Encourages* requested State parties to respond to requests for assistance and to adopt such measures as may be necessary to enable them to provide a wider scope of assistance, pursuant to article 46 of the United Nations Convention against Corruption in the absence of dual criminality;
10. *Calls upon* all States to consider waiving or reducing to the barest minimum reasonable expenses deducted when recovering assets, particularly when the requesting State is a developing country, bearing in mind that the return of illicitly acquired assets contributes to the achievement of the Sustainable Development Goals;
11. *Reiterates* the importance of full compliance with international human rights law in relation to the return of proceeds of crime, in particular due process rights in criminal or civil law matters against persons presumed to be responsible for corruption, tax evasion or other related criminal conduct and with respect to freezing and forfeiture;
12. *Invites* the Conference of the States Parties to the United Nations Convention against Corruption to consider ways of adopting a human rights-based approach in the implementation of the Convention, including when dealing with the return of the proceeds of crime, and appreciates the continued efforts of the Open-ended Intergovernmental Working Group on Asset Recovery of the Conference to assist States parties in fulfilling

⁴ A/HRC/31/61.

their obligations under the Convention to prevent, detect and deter in a more effective manner the international transfer of the proceeds of crime and to strengthen international cooperation in asset recovery;

13. *Notes with appreciation* the Stolen Assets Recovery Initiative of the World Bank Group and the United Nations Office on Drugs and Crime, and encourages coordination among existing initiatives;

14. *Notes* the importance of the International Monetary Fund and the World Bank publishing estimates of the volume and composition of illicit financial flows on an annual basis to monitor progress in implementing target 16.4 of the Sustainable Development Goals on illicit financial flows;

15. *Calls upon* States to continue to consider the establishment of an intergovernmental working group on the negative impact of illicit financial flows on the enjoyment of human rights, and to explore further policy responses to the phenomenon;

16. *Realizes* that, while illicit financial outflows from the least developed countries may account for only a small portion of all outflows of funds of illicit origin worldwide, they have a particularly negative impact on social development and the realization of social, economic and cultural rights in these countries, given the size of their economies;

17. *Underscores* that the repatriation of funds of illicit origin is key for States that are undergoing a reform process and for improving the realization of economic, social and cultural rights, including the right to development, and for fulfilling their obligation to meet the legitimate aspirations of their peoples;

18. *Acknowledges* the important role that civil society can play in exposing corruption and drawing attention to the negative impact of the non-repatriation of funds of illicit origin on the rule of law and the realization of economic, social and cultural rights, and reiterates in this context the obligation of States to protect reporting persons in accordance with article 33 of the United Nations Convention against Corruption and the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms;

19. *Welcomes* national initiatives to adopt anti-money-laundering legislation as an important step in the fight against corruption and the willingness demonstrated by some States to cooperate in facilitating the return of the proceeds of crime, and calls for more robust regulations in this regard, including through the implementation of policies aimed at reducing the flow of the proceeds of crime, ensuring their return and the provision of technical assistance to developing countries;

20. *Encourages* all States to share best practices in the freezing and recovery of funds of illicit origin;

21. *Calls for* further international cooperation through, inter alia, the United Nations system, in support of national, subregional and regional efforts to prevent and combat corrupt practices and the transfer of assets of illicit origin, in accordance with the principles of the United Nations Convention against Corruption, and in this regard encourages close cooperation at the national and international levels between anti-corruption agencies, law enforcement agencies and financial intelligence units;

22. *Calls upon* all States requested to repatriate funds of illicit origin to uphold fully their commitment to make the fight against corruption a priority at all levels and to curb the illicit transfer of funds, in accordance with the United Nations Convention against Corruption, and to make every effort to achieve the repatriation of funds of illicit origin to the requesting States in order to diminish the negative impact of non-repatriation, including

on the enjoyment of human rights, in particular economic, social and cultural rights in the countries of origin by, inter alia, lowering the barriers imposed on requiring jurisdictions at the tracing stage and enhancing cooperation in this regard between competent agencies, in particular taking into account the risks of dissipation of those funds and, where appropriate, by delinking confiscation measures from a requirement of conviction in the country of origin;

23. *Calls upon* all States requesting the repatriation of funds of illicit origin to uphold fully their commitment to make the fight against corruption a priority at all levels and to curb the illicit transfer of funds, and to apply the principles of accountability, transparency and participation in the decision-making process regarding the allocation of repatriated funds to the realization of economic, social and cultural rights in order to improve prevention and detection procedures, correct identified weaknesses or mismanagement, prevent impunity, provide effective remedies directed at creating conditions for avoiding new human rights violations and improve the overall administration of justice;

24. *Reaffirms* that it is the obligation of the State to investigate and prosecute corruption, calls upon all States to strengthen criminal proceedings directed at freezing or restraining funds of illicit origin, and encourages requesting States to ensure that adequate national investigative procedures have been initiated and substantiated for the purpose of presenting mutual legal assistance requests, and in this context encourages requested States to provide information on legal frameworks and procedures to the requesting State and to remove barriers to asset recovery, including by simplifying their legal procedures;

25. *Underlines* that there is also a corporate responsibility to comply with and respect all applicable laws and human rights, and a need for greater access to effective remedies by victims in order to realize effective prevention of, and remedy for, business-related human rights harm, as set out in the Guiding Principles on Business and Human Rights;

26. *Calls upon* requesting and requested States with practical experience in asset recovery to develop, as appropriate, in cooperation with interested States and providers of technical assistance, non-binding practical guidelines, such as a step-by-step guide for efficient asset recovery, with a view to enhancing effective approaches to asset recovery based on best practices, practical experience and the lessons learned from past cases, while being mindful to seek to add value by building upon existing work in this area through innovative and efficient means;

27. *Encourages* States parties to consider, where appropriate, and in accordance with national law, the opportunity of referring to the draft Lausanne guidelines for efficient recovery of stolen assets in their practice; and any other relevant instruments,

28. *Stresses* the need for transparency in financial institutions and effective due diligence measures to be applied by financial intermediaries, calls upon States to seek appropriate means in accordance with their international obligations to ensure the cooperation and responsiveness of financial institutions to foreign requests to freeze and recover funds of illicit origin and the provision of an efficient mutual legal assistance regime to States requesting repatriation of those funds, and encourages the promotion of human and institutional capacity-building in that regard;

29. *Recalls* the importance of the Implementation Review mechanism of the United Nations Convention against Corruption, and urges States parties to comply with their obligations in the conduct of country reviews to enhance effective implementation of the Convention as a preventive measure for the outflow of illicit financial flows;

30. *Welcomes* the work undertaken by the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, and requests him to continue to consider the impact of illicit financial flows on the enjoyment of human rights as part of the mandate;

31. *Requests* the Advisory Committee of the Human Rights Council to conduct a study, in continuation of the study requested by the Human Rights Council in its resolution 31/22, on the possibility of utilizing non-repatriated illicit funds, including through monetization and/or the establishment of investment funds, with view to supporting development plans in the countries of origin in accordance with national priorities, thus alleviating the impact of the non-repatriation of the proceeds of crime on the full enjoyment of human rights, while completing the necessary legal procedures for the return of the proceeds of crime, and to submit the requested study to the Council at its thirty-ninth session;

32. *Also requests* the Advisory Committee to seek, if necessary, further views and the input of Member States, relevant international and regional organizations, United Nations bodies, including the United Nations Office on Drugs and Crime, national human rights institutions and non-governmental organizations in order to finalize the above-mentioned study;

33. *Requests* the United Nations High Commissioner for Human Rights to provide all assistance and financial resources necessary to allow the Independent Expert to carry out the mandate set out in the present resolution, and calls upon all relevant stakeholders, including States and United Nations bodies and agencies, and other international and regional entities to cooperate fully with the Independent Expert in this regard;

34. *Requests* the Secretary-General to bring the present resolution to the attention of all Member States and the fora dealing with the issue of the repatriation of funds of illicit origin within the United Nations system for consideration and necessary action and coordination as appropriate, particularly within the context of the Conference of the States Parties to the United Nations Convention against Corruption;

35. *Decides* to continue its consideration of this matter under the same agenda item.



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Thirty-fourth session

27 February – 24 March 2017

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Afghanistan,* Ecuador, Egypt, Haiti,* Iraq,[†] Libya,* Tunisia:[‡] draft resolution

34/... The negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, and the importance of improving international cooperation

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights, the Declaration on the Right to Development, the Vienna Declaration and Programme of Action and other relevant human rights instruments,

Reiterating the commitment to ensure the effective enjoyment of all civil, political, economic, social and cultural rights for everyone, including the right to development, and the obligation of all States, regardless of their political, economic and cultural systems, to promote, protect and respect all human rights and fundamental freedoms,

Recalling General Assembly resolutions 60/251 of 15 March 2006, 62/219 of 22 December 2007 and 65/281 of 17 June 2011, and Human Rights Council resolutions 5/1 and 5/2 of 18 June 2007, 11/11 of 18 June 2009 and 16/21 of 25 March 2011,

Recalling also General Assembly resolutions 54/205 of 22 December 1999, 55/61 of 4 December 2000, 55/188 of 20 December 2000, 56/186 of 21 December 2001, 57/244 of 20 December 2002, 58/205 of 23 December 2003, 59/242 of 22 December 2004, 60/1 of 16 September 2005, 60/207 of 22 December 2005, 61/209 of 20 December 2006, 62/202 of 19 December 2007, 63/226 of 19 December 2008, 64/237 of 24 December 2009, 65/1 of 22

* State not a member of the Human Rights Council.

[†] On behalf of the States Members of the United Nations that are members of the Group of Arab States.

[‡] On behalf of the States Members of the United Nations that are members of the Group of African States.

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September 2010, 65/169 of 20 December 2010, 67/192 of 20 December 2012, 68/195 of 18 December 2013, 68/309 of 10 September 2014 and 69/199 of 18 December 2014,

Recalling further Human Rights Council resolutions 17/23 of 17 June 2011, 19/38 of 23 March 2012, 22/12 of 21 March 2013, 25/9 of 27 March 2014, 28/5 of 26 March 2015 and 31/22 of 24 March 2016,

Recalling that human rights, as recognized in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, are universal, indivisible, interrelated and interdependent,

Reaffirming the commitments of States parties to the United Nations Convention against Corruption thereunder, recognizing that the Convention is aimed at promoting and strengthening measures to prevent and combat corruption more efficiently and effectively, and that the return of assets is one of the objectives and a fundamental principle of the Convention,

Reaffirming also that all peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law, and that in no case may a people be deprived of its own means of subsistence,

Recognizing that respect for and adherence to the principles of transparency, accountability and participation are critical factors in ensuring use of returned illicit funds,

Recognizing also that fighting corruption at all levels is a priority and that flows of funds of illicit origin deprive countries of resources required to progressively realize human rights, including economic, social and cultural rights, and in particular the right to development, in such a way that threatens the stability and sustainable development of States, undermines the values of democracy, the rule of law and morality and jeopardizes social, economic and political development,

Recalling the United Nations Convention against Corruption, underlining its central role in fostering international cooperation to combat corruption and to facilitate the return of the proceeds of corruption-related crimes, and stressing the need for universal adherence to the Convention and for its full implementation, and the full implementation of the resolutions and decisions of the Conference of the States Parties to the Convention,

Recalling also that the United Nations Convention against Corruption underlines that States parties should not decline to render mutual legal assistance, pursuant to the Convention, including on the ground of bank secrecy, and in accordance with the domestic law of the requested State,

Concerned that the relative amount of wealth from developing countries held abroad is much greater than that from developed countries, and that a significant amount of that wealth held offshore may involve illicit funds,

Welcoming the adoption by the General Assembly of the 2030 Agenda for Sustainable Development,¹ and the inclusion therein of targets 16.4, 16.5, 16.6 and 16.10, which underline the commitment of States to significantly reduce by 2030 illicit financial and arms flows, to strengthen the recovery and return of stolen assets and to combat all forms of organized crime, to substantially reduce corruption and bribery in all their forms and to develop effective, accountable and transparent institutions at all levels, and to ensure

¹ General Assembly resolution 70/1.

public access to information and to protect fundamental freedoms, as implementing these targets will contribute to the enjoyment of all human rights, in particular economic, social and cultural rights,

Welcoming also the adoption by the Third International Conference on Financing for Development, held in Addis Ababa in July 2015, of the Addis Ababa Action Agenda,² which underlined, in particular, that measures to curb illicit financial flows will be integral to achieving sustainable development,

Welcoming further the convening of an experts meeting on the issue of the negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, pursuant to Human Rights Council resolution 28/5,

Taking note of the work carried out by different United Nations bodies, including the United Nations Office on Drugs and Crime, and international and regional organizations in preventing and combating all forms of corruption,

Bearing in mind that the prevention and eradication of corruption is a responsibility of all States, and that States should cooperate with one another, in accordance with the United Nations Convention against Corruption, with the support and full involvement of other stakeholders,

Bearing in mind also that, in accordance with the requirements of the Convention against Corruption, those who engage in corrupt acts, whether natural or legal persons, should be held accountable and prosecuted by the competent authorities, and that all efforts should be made to conduct a financial investigation into assets illegally acquired by them and to recover such assets through domestic confiscation proceedings, international cooperation for purpose of confiscation and appropriate recovery measures,

Encouraging all relevant United Nations mechanisms to continue their consideration of the negative impact of illicit financial flows on the enjoyment of human rights, to further explore policy responses to the phenomenon and to coordinate their efforts in this regard,

Recognizing that strong and efficient domestic legal systems are essential in preventing and combating corrupt practices and the transfer of assets of illicit origin and in returning such assets, and recalling that the fight against all forms of corruption requires strong institutions at all levels, including at the local level, able to take efficient preventive and law enforcement measures consistent with the United Nations Convention against Corruption, in particular chapters II and III thereof,

Appreciating the continued efforts of the Conference of the States Parties to the United Nations Convention against Corruption, through its various intergovernmental working groups, to oversee the review process of the implementation of the Convention, to advise on the provision of technical assistance for building institutional and human capacity in States parties for the prevention of corruption, and to enhance international cooperation, including in the return of the proceeds of crime,

Taking note with appreciation of the Lausanne process initiative on practical guidelines for efficient asset recovery, developed by 30 States parties in close collaboration with the International Centre for Asset Recovery and with the support of the Stolen Asset Recovery Initiative of the World Bank and the United Nations Office on Drugs and Crime, which are aimed at providing effective and coordinated approaches to asset recovery for practitioners from requesting and requested States,

² General Assembly resolution 69/313.

Affirming the responsibilities of requesting and requested States in the return of the proceeds of crime, cognizant that requesting States must seek return as part of their duty to ensure the application of the maximum available resources to the full realization of all human rights for all, including the right to development, address human rights violations and combat impunity, and that requested States, on the other hand, have a duty to assist and facilitate the return of the proceeds of crime, including through judicial assistance, as part of their obligation of international cooperation and assistance under chapters IV and V of the United Nations Convention against Corruption and in the field of human rights,

Recalling that the repatriation of funds of illicit origin requires the close and transparent coordination and cooperation of requesting and requested States, including between competent authorities, in particular the judicial authorities, within the shared responsibility to facilitate efficient international cooperation for the prompt recovery of assets of illicit origin,

Concerned at the challenges and difficulties that both requested and requesting States face in the return of the proceeds of crime, owing to, inter alia, differences in legal systems, the complexity of transnational investigations and prosecutions, lack of familiarity with the mutual legal assistance procedures of other States and difficulties in identifying the flow of funds of illicit origin, noting the particular challenges in recovering them in cases involving individuals who are or have been entrusted with prominent public functions and their family members and close associates, and recognizing that legal difficulties are often exacerbated by factual and institutional obstacles, and noting also the difficulties of providing information establishing a link between the proceeds of corruption in the requested State and the crime committed in the requesting State, which in many cases may be difficult to prove,

Asserting the urgent need to repatriate illicit funds to the countries of origin without conditionalities, in accordance with the United Nations Convention against Corruption and the relevant resolutions of the Conference of the State Parties, as well as the commitments made at the 2005 World Summit and the 2010 high-level plenary meeting of the General Assembly on the Millennium Development Goals to make the fight against corruption a priority at all levels and to curb the illicit transfer of funds, and urging all States to step up their efforts to trace, freeze and recover those funds,

Noting the particular concern of developing countries and countries with economies in transition regarding the need to return assets of illicit origin derived from corruption, in particular to countries from which they originated, consistent with the principles of the United Nations Convention against Corruption, in particular chapter V thereof, so as to enable countries to design and fund development projects in accordance with their national priorities in view of the importance that such assets can have to their sustainable development,

1. *Takes note of the report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, focusing on labour rights in the context of economic reform and austerity measures,⁷ prepared pursuant to Human Rights Council resolution 25/16;*

2. *Also takes note of the final study on illicit financial flows, human rights and the 2030 Agenda for Sustainable Development prepared by the Independent Expert;⁸*

⁷ A/HRC/31/60.

⁸ A/HRC/31/61.

3. Welcomes the report of the High-level Panel on Illicit Financial Flows from Africa, which highlighted the gravity of the problem of illicit financial flows in the continent, ranging from \$50 to \$60 billion a year;

4. Calls upon all States that have not yet acceded to the United Nations Convention against Corruption to consider doing so as a matter of priority;

5. Urges requesting and requested States to cooperate to recover the proceeds of corruption, in particular, embezzled public funds, stolen assets and unaccounted-for assets, including those that are found in safe havens, and to demonstrate strong commitment to ensuring the return or disposal of such assets, including their return to the countries of origin, to their prior legitimate owners or to the victims of the crime;

6. Calls upon all States to consider enacting legislation to address offences by business enterprises, including multinational corporations, that deprive Governments of legitimate domestic sources of revenue for the implementation of their development agendas, in compliance with their international obligations, including international human rights law;

7. Also calls upon all States to seek to reduce opportunities for tax avoidance, to consider inserting anti-abuse clauses in all tax treaties and to enhance disclosure practices and transparency in both source and destination countries, including by seeking to ensure transparency in all financial transactions between Governments and companies to relevant tax authorities;

8. Asserts the urgent need to return the proceeds of crime to the requesting countries without conditionalities, in accordance with the United Nations Convention against Corruption and with due process, to strive to eliminate safe havens that create incentives for transfer abroad of stolen assets and illicit financial flows, and to strengthen regulatory frameworks at all levels;

9. Encourages requested State parties to respond to requests for assistance and to consider adopting such measures as may be necessary to enable them to provide a wider scope of assistance, pursuant to article 46 of the United Nations Convention against Corruption in the absence of dual criminality;

10. Calls upon all States to consider waiving or reducing to the barest minimum reasonable expenses deducted when recovering assets, particularly when the requesting State is a developing country, bearing in mind that the return of illicitly acquired assets contributes to the achievement of the Sustainable Development Goals;

11. Reiterates the importance of full compliance with international human rights law in relation to the return of proceeds of crime, in particular due process rights in criminal or civil law matters against persons presumed to be responsible for corruption, tax evasion or other related criminal conduct and with respect to freezing and forfeiture;

12. Invites the Conference of the States Parties to the United Nations Convention against Corruption to consider ways of adopting a human rights-based approach in the implementation of the Convention, including when dealing with the return of the proceeds of crime, and appreciates the continued efforts of the Open-ended Intergovernmental Working Group on Asset Recovery of the Conference to assist States parties in fulfilling their obligations under the Convention to prevent, detect and deter in a more effective manner the international transfer of the proceeds of crime and to strengthen international cooperation in asset recovery;

13. Notes with appreciation the Stolen Assets Recovery Initiative of the World Bank Group and the United Nations Office on Drugs and Crime, and encourages coordination among existing initiatives;

14. *Notes* the importance of the International Monetary Fund and the World Bank publishing estimates of the volume and composition of illicit financial flows on an annual basis to monitor progress in implementing target 16.4 of the Sustainable Development Goals on illicit financial flows;

15. *Calls upon* States to continue to consider the establishment of an intergovernmental working group on the negative impact of illicit financial flows on the enjoyment of human rights, and to explore further policy responses to the phenomenon;

16. *Realizes* that, while illicit financial outflows from the least developed countries may account for only a small portion of all outflows of funds of illicit origin worldwide, they have a particularly negative impact on social development and the realization of social, economic and cultural rights in these countries, given the size of their economies;

17. *Underscores* that the repatriation of funds of illicit origin is key for States that are undergoing a democratization and reform process and for improving the realization of economic, social and cultural rights, including the right to development, and for fulfilling their obligation to meet the legitimate aspirations of their peoples;

18. *Acknowledges* the important role that civil society can play in exposing corruption and drawing attention to the negative impact of the non-repatriation of funds of illicit origin on the rule of law and the realization of economic, social and cultural rights, and reiterates in this context the obligation of States to protect reporting persons in accordance with article 33 of the United Nations Convention against Corruption and the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms;

19. *Welcomes* national initiatives to adopt anti-money-laundering legislation as an important step in the fight against corruption and the willingness demonstrated by some States to cooperate in facilitating the return of the proceeds of crime, and calls for more robust regulations in this regard, including through the implementation of policies aimed at reducing the flow of the proceeds of crime, ensuring their return and the provision of technical assistance to developing countries;

20. *Encourages* all States to share best practices in the freezing and recovery of funds of illicit origin;

21. *Calls for* further international cooperation through, inter alia, the United Nations system, in support of national, subregional and regional efforts to prevent and combat corrupt practices and the transfer of assets of illicit origin, in accordance with the principles of the United Nations Convention against Corruption, and in this regard encourages close cooperation at the national and international levels between anti-corruption agencies, law enforcement agencies and financial intelligence units;

22. *Calls upon* all States requested to repatriate funds of illicit origin to uphold fully their commitment to make the fight against corruption a priority at all levels and to curb the illicit transfer of funds, in accordance with the United Nations Convention against Corruption, and to make every effort to achieve the repatriation of funds of illicit origin to the requesting States in order to diminish the negative impact of non-repatriation, including on the enjoyment of human rights, in particular economic, social and cultural rights in the countries of origin by, inter alia, lowering the barriers imposed on requiring jurisdictions at the tracing stage and enhancing cooperation in this regard between competent agencies, in particular taking into account the risks of dissipation of those funds and, where appropriate, by delinking confiscation measures from a requirement of conviction in the country of origin;

23. *Calls upon* all States requesting the repatriation of funds of illicit origin to uphold fully their commitment to make the fight against corruption a priority at all levels and to curb the illicit transfer of funds, and to apply the principles of accountability, transparency and participation in the decision-making process regarding the allocation of repatriated funds to the realization of economic, social and cultural rights in order to improve prevention and detection procedures, correct identified weaknesses or mismanagement, prevent impunity, provide effective remedies directed at creating conditions for avoiding new human rights violations and improve the overall administration of justice;

24. *Reaffirms* that it is the obligation of the State to investigate and prosecute corruption, calls upon all States to strengthen criminal proceedings directed at freezing or restraining funds of illicit origin, and encourages requesting States to ensure that adequate national investigative procedures have been initiated and substantiated for the purpose of presenting mutual legal assistance requests, and in this context encourages requested States to provide information on legal frameworks and procedures to the requesting State and to remove barriers to asset recovery, including by simplifying their legal procedures;

25. *Underlines* that there is also a corporate responsibility to comply with and respect all applicable laws and human rights, and a need for greater access to effective remedies by victims in order to realize effective prevention of, and remedy for, business-related human rights harm, as set out in the Guiding Principles on Business and Human Rights;

26. *Calls upon* requesting and requested States with practical experience in asset recovery to develop, as appropriate, in cooperation with interested States and providers of technical assistance, non-binding practical guidelines, such as a step-by-step guide for efficient asset recovery, with a view to enhancing effective approaches to asset recovery based on best practices, practical experience and the lessons learned from past cases, while being mindful to seek to add value by building upon existing work in this area through innovative and efficient means;

27. *Encourages* States parties to consider, where appropriate, and in accordance with national law, the opportunity of referring to the draft Lausanne guidelines for efficient recovery of stolen assets in their practice; and any other relevant instruments;

28. *Stresses* the need for transparency in financial institutions and effective due diligence measures to be applied by financial intermediaries, calls upon States to seek appropriate means in accordance with their international obligations to ensure the cooperation and responsiveness of financial institutions to foreign requests to freeze and recover funds of illicit origin and the provision of an efficient mutual legal assistance regime to States requesting repatriation of those funds, and encourages the promotion of human and institutional capacity-building in that regard;

29. *Recalls* the importance of the Implementation Review mechanism of the United Nations Convention against Corruption, and urges States parties to comply with their obligations in the conduct of country reviews to enhance effective implementation of the Convention as a preventive measure for the outflow of illicit financial flows;

30. *Welcomes* the work undertaken by the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, and requests him to continue to consider the impact of illicit financial flows on the enjoyment of human rights as part of the mandate;

31. *Requests* the Advisory Committee of the Human Rights Council to conduct a study, in continuation of the study requested by the Human Rights Council in its resolution

31/22, on the possibility of utilizing non-repatriated illicit funds, including through monetization and/or the establishment of investment funds, while completing the necessary legal procedures, and in accordance with national priorities, with view to supporting the achievement of the Goals of the 2030 Agenda for Sustainable Development, contributing to the enhancement of the promotion of human rights and in accordance with obligations under international human rights law, and to submit the requested study to the Council at its thirty-ninth session;

32. *Also requests* the Advisory Committee to seek, if necessary, further views and the input of Member States, relevant international and regional organizations, United Nations bodies, including the United Nations Office on Drugs and Crime, national human rights institutions and non-governmental organizations in order to finalize the above-mentioned study;

33. *Requests* the United Nations High Commissioner for Human Rights to provide all assistance and financial resources necessary to allow the Independent Expert to carry out the mandate set out in the present resolution, and calls upon all relevant stakeholders, including States and United Nations bodies and agencies, and other international and regional entities to cooperate fully with the Independent Expert in this regard;

34. *Requests* the Secretary-General to bring the present resolution to the attention of all Member States and the fora dealing with the issue of the repatriation of funds of illicit origin within the United Nations system for consideration and necessary action and coordination as appropriate, particularly within the context of the Conference of the States Parties to the United Nations Convention against Corruption;

35. *Decides* to continue its consideration of this matter under the same agenda item.
